

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

ANDREW U.D. STRAW, Plaintiff, vs. STATE OF UTAH, Defendant.	MEMORANDUM DECISION AND ORDER OF DISMISSAL Case No. 2:22-cv-00023-TC-CMR
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On February 14, 2023, United States Magistrate Judge Cecilia M. Romero issued a Report & Recommendation (R&R) (ECF No. 32) recommending that the court dismiss this case for lack of subject matter jurisdiction. Plaintiff Andrew Straw filed objections to that report (ECF No. 33), arguing that the R&R failed to address his First Amendment concerns.

The court has reviewed the matter and the R&R *de novo*, as required by 28 U.S.C. § 636(b)(1)(C), and finds that Mr. Straw’s objections are meritless. In federal appellate courts, “[w]hether to permit a nonparty to submit a brief, as *amicus curiae*, is a matter within the sound discretion of the court.” Hammond v. City of Junction City, Kan., 2001 WL 1665374, at *1 (D. Kan. Dec. 17, 2001) (citations omitted); see also N. Sec. Co. v. United States, 191 U.S. 555, 555-56 (1903). The First Amendment does not require this court to overturn the similar discretionary procedures of state appellate courts. See Utah R. App. P. 25(c)(4) (“The appellate court has discretion in determining whether to grant a motion for leave to file an *amicus curiae* brief.”).


The court therefore agrees with the magistrate judge that the case should be dismissed for lack of subject matter and adopts the R&R (ECF No. 32) in its entirety.

ORDER

The court DISMISSES this action WITH PREJUDICE for lack of subject matter jurisdiction. The motion for service of process (ECF No. 31) is DENIED AS MOOT.

DATED this 17th day of March, 2023.

BY THE COURT:

A handwritten signature in black ink, reading "Tena Campbell", written over a horizontal line.

TENA CAMPBELL

U.S. District Court Judge